

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES**

In re Application of: Janne Markus MUHONEN	Confirmation No.: 3908
Application No.: 10/550,074	Group Art Unit: 2617
Filed: December 5, 2005	Examiner: Tangela T Chambers

For: METHOD AND SYSTEM FOR ESTABLISHING AN EMERGENCY CALL
IN A COMMUNICATIONS SYSTEM

Commissioner for Patents
Alexandria, VA 22313-1450

REPLY BRIEF

Dear Sir:

This Reply Brief is submitted in response to the Examiner's Answer mailed November 23, 2009.

I. STATUS OF THE CLAIMS

Claims 17-22 and 31-35 are pending and are on appeal. Claims 1-16 and 23-30 are canceled. No claim is allowed.

II. GROUND OF REJECTION TO BE REVIEWED

Claims 17-19, 21, 22, 31, 32, 34, and 35 were rejected under 35 U.S.C. § 102(e) as anticipated by *Rhodes et al.* (US 2003/0186709).

Claims 20 and 33 were rejected for obviousness under 35 U.S.C. § 103(a) based on *Rhodes et al.* (US 2003/0186709) in view of *Maanoja et al.* (US 2004/0259566).

III. ARGUMENT

Appellants maintain and incorporate the positions presented in the Appeal Brief filed August 28, 2009, but present further refutation of certain assertions presented in the Examiner's Answer.

At pages 8-9 of the Answer, responsive to Appellants' argument that *Rhodes et al.* fails to describe determining a first position estimate of a mobile device and then determining a second more accurate position estimate of the mobile device, the Examiner cited paragraph [0057] of the reference. That cited portion of the reference describes "precise routing," wherein each E911 call is routed to "the best PSAP based on a SubLocRep location estimate, if the SubLocRep location estimate is available for that caller within a statistically pre-configured time interval." Thus, only one location estimate is determined, rather than the two claimed.

At page 9 of the Answer, responsive to Appellants' argument that *Rhodes et al.* fails to describe determining a second position estimate, more accurate than the first position estimate of the mobile device, the Examiner asserted "once an emergency call is established, additional, more accurate location information may be determined for the mobile device." The Examiner explained that this "more accurate location information" might include "emergency service routing keys, the mobile device's latitude and longitude, a location estimate, an indication of how accurate the location estimate is and the age of the location estimate." However, the Examiner fails to cite what portions, if any, of *Rhodes et al.* are relied on as evidence of this assertion. Therefore, the Examiner's rationale is without any basis in fact.

Moreover, even assuming, *arguendo*, that the list of what the Examiner explains as "more accurate location information" is described in *Rhodes et al.*, the reference still does not teach such "more accurate location information" in the context of the instant claimed subject matter. Taking

independent claim 17 as exemplary, there must first be a determination of a first estimate of a position of a user's equipment within the radio coverage area. Then, there must be an interruption of the establishment of the emergency call. Then, at least one of two answering points is selected by a control point, **based on said first position estimate**. When that answering point has been selected, call establishment is resumed, a second, more accurate, position estimate is determined, and the second position estimate is sent to the selected answering point. Thus, there is a specific relationship claimed, wherein the second position estimate is determined and sent to an answering point selected, **based on said first position estimate**. Therefore, even if *Rhodes et al.* teaches "more accurate location information" in the form of "emergency service routing keys, the mobile device's latitude and longitude, a location estimate, an indication of how accurate the location estimate is and the age of the location estimate," which Appellants do not admit, there is no indication in *Rhodes et al.* of any connection of such a "more accurate location information" to a first position estimate. That is, the claimed first and second position estimates do not exist in a vacuum, but are interconnected via a selected answering point and *Rhodes et al.* discloses no such relationship.

At page 11 of the Answer, responsive to Appellants' argument that *Rhodes et al.* fails to disclose all of the claimed features, the Examiner asserted, without citing any particular portions of *Rhodes et al.*, that the reference "teaches determining the location of a mobile device using the identity of the cell site sector serving the mobile device. The location information determined from the cell site sector is accurate enough for a control point to determine a relevant PSAP to route the call as opposed to a pre-configured default PSAP which is used when no location information is available."

Whether the Examiner's allegation is true or not, and, again, the Examiner does not indicate what portion(s) of the reference are being relied on, the point is that it is the location of the cell site sector that is being determined in *Rhodes et al.*, unlike in the instant claims, where a location estimate of the "position of said user's equipment" is determined. Determining the position of a cell site sector is different from determining the position of a user's equipment (i.e., the mobile device).

At pages 11-12 of the Answer, the Examiner asserted that Appellants provided a summary of only one embodiment of the system of *Rhodes et al.*, described at paragraphs [0057] and [0058], but that *Rhodes et al.*, indeed, teaches that when an emergency call is made, a first location estimate of the mobile device is determined based on the cell site sector identification received from the mobile carrier, and that the initial estimate of the mobile device's location is made by identifying the location of the cell sector.

First, the Examiner argues that Appellants' arguments are based on only one embodiment of *Rhodes et al.*, but the Examiner does not identify any other embodiment. Further, the Examiner does not identify what portion(s) of *Rhodes et al.* are relied on in countering Appellants' arguments. Still further, Appellants assert that even if the determination of the cell site sector in *Rhodes et al.* can be interpreted as the claimed "first estimate of a position of said user's equipment" (and Appellants contend that it cannot be so construed because a location of a cell site sector is not equivalent to the location of the user's equipment within that sector), there is still no teaching in *Rhodes et al.* of the claimed "second, more accurate position estimate" that is based on the first position estimate, with the first position estimate being used to select one of the answering points, and the second position estimate being determined after that one answering point has been selected.

In the middle of page 12 of the Answer, responsive to Appellants' argument that *Rhodes et al.* does not disclose the feature of a second, more accurate, position estimate, the Examiner asserted that after an initial estimate is determined, "the emergency call is routed to a selected PSAP. **While the call is in progress**, a second location estimate is determined for the mobile device" (emphasis added). On its face, the Examiner's rationale is flawed. Taking independent claim 17, for example, the instant claims recite that the call establishment is interrupted and then, after one of two answering points is selected, **call establishment is resumed**, at which time the second, more accurate location estimate is determined. Thus, while the Examiner acknowledged that any second location estimate (Appellants do not admit that *Rhodes et al.* discloses such a second location estimate) is determined **while the call is in progress**, the claims require that the second, more accurate location estimate is determined during establishment of the call, before the call is "in progress." Accordingly, *Rhodes et al.* cannot anticipate the instant claimed subject matter.

At the bottom of page 12 of the Answer, responsive to Appellants' argument that the first position estimate of *Rhodes et al.* is not "a position of said user's equipment within said radio coverage area, the Examiner asserted the first position estimate in *Rhodes et al.* is based on the cell site sector (or base station) location. Even if the first position location in *Rhodes et al.* is **based on** the base station location, this still does not constitute a position estimate of the user's equipment as an estimate based on a location is not an estimate of the location itself.

At page 13 of the Answer, responsive to Appellants' argument that *Rhodes et al.* fails to teach "which one of said at least two answering points the call is to be established," the Examiner asserted that since *Rhodes et al.* teaches that a call may be routed to a default PSAP or to a PSAP

based on the cell sector site location, this constitutes at least two answering points to which a call may be connected. Appellants respectfully disagree.

Rhodes et al. does not use “a control point to select, based on said first position estimate, which one of said at least two answering points the call is to be established with.” Rather, as disclosed at paragraph [0017], for example, there is a selection of one PSAP, but that selection is delayed a given amount of time until accurate location information is received. If such information is received within the time period, then there is a connection to the selected PSAP. But if there is no accurate location information received during that time period, then a default PSAP is connected. Thus, only one answering point is of concern to *Rhodes et al.* until and unless accurate information is not received in a certain time period, in which case, only then is the default PSAP selected. But there is no control point that has the option to select any one of the two answering points at the time of selection. That is, in the instant claimed invention, the control point selects from two answering points available and that selection will be based on a first position estimate. But, in *Rhodes et al.*, only one answering point is selected and when, and only when, a time period has passed without receiving accurate location information, does the “choice” of a second, i.e., default, answering point come into play. Thus, the default PSAP in *Rhodes et al.* is selected only **based on passage of a certain time period** without receiving accurate information, whereas, in the instant claims, the selection of the one of two answering points is “based on said first position estimate,” and not on a time period. Therefore, again, *Rhodes et al.* cannot anticipate the instant claimed subject matter.

The Examiner’s arguments, at pages 14-27 of the Answer, are addressed to claims other than claim 17 and claims dependent thereon, but the features of these other claims are similar to

those of claims 17-20, and so the Examiner's arguments mirror those already addressed herein, as well as in the principal Brief. Accordingly, Appellants rely on arguments already presented.

IV. PRAYER FOR RELIEF

Rhodes et al. does not anticipate the instant claimed subject matter under 35 U.S.C. §102(e) for the reasons set forth herein and in the principal Brief. Since *Maanoja et al.* does not cure the deficiencies of *Rhodes et al.*, claims 20 and 33 are also allowable, within the meaning of 35 U.S.C. § 103(a). Appellants, therefore, request the Honorable Board to reverse each of the Examiner's rejections.

Respectfully Submitted,

DITTHAVONG MORI & STEINER, P.C.

January 15, 2010
Date

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